IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

Crl.MC.No. 1826 of 2007()

CC.30/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR

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PETITIONER: ACCUSED

MADATHILAVALAPPIL RUKHIYA,
D/O. ABDULLA, AGED 36 YEARS, KHADEEJA MANZIL,
STATION ROAD, PAPPINISSERY, KANNUR.

BY ADV. SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH
SRI.K.R.AVINASH (KUNNATH)

RESPONDENTS:

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1. P.K.ABDUL KAREEM, S/O. YOUSAF,
AGED 51 YEARS, AICHAS, P.O.CHERUKUNNU,
KANNUR.

2. SHO, VALAPATTANAM POLICE STATION,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1826 OF 2007

Dated this the 7th day of June, 2007

ORDER

The petitioner is the sole accused in a prosecution under Sec.420 of the IPC. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. The crux of the allegations against the petitioner is that in a property transaction, she induced the complainant to part with the money on the basis of fraudulent false misrepresentations.

2. The petitioner – a woman, has already appeared before the learned Magistrate. She has been enlarged on bail. The charges have not been framed so far.

3. The petitioner has come to this Court with a plea that the proceedings against her may be quashed by invoking the inherent jurisdiction under Sec.482 of the Cr.P.C.

4. I shall carefully avoid any detailed reference to the contested facts, lest it might prejudice the interests of the

contestants. I am satisfied that this is not a fit case where the extraordinary inherent jurisdiction under Sec.482 of the Cr.P.C. can or ought to be invoked. This, I am satisfied, is a fit case where the petitioner must raise her contentions before the learned Magistrate at the stage of discharge under Sec.239/240 of the Cr.P.C.

5. The jurisdiction under Sec.482 of the Cr.P.C. is to be invoked sparingly and in exceptional cases that too only in aid of justice. It is not to be invoked as a matter of course. Even the fact that the accused may succeed in a plea of discharge/ acquittal later on cannot by itself persuade the court to invoke such jurisdiction.

6. Having considered the nature of allegations and the nature of the materials, I am satisfied that the petitioner must be relegated to claim premature termination by discharge at the stage of Sec.239/240 of the Cr.P.C. or acquittal later on. In any view of the matter, there is no necessity to invoke the jurisdiction under Sec.482 of the Cr.P.C.

7. In the result, this Crl.M.C. is dismissed. I may hasten to observe that I have not intended to express any opinion on merits and have chosen only to hold that the powers under

Sec.482 of the Cr.P.C. need not be invoked now.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge